IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 4TH APRIL 2007 / 14TH CHAITHRA 1929

RP.No. 395 of 2007(K)

AGAINST THE JUDGEMENT IN WPC.7666/2007 Dated 07/03/2007

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REVIEW PETITIONER/PETITIONER:

SUBHASH K.P,S/O.RAMAN,KARADI PARAMBIL,
THIUVODE P.O,NADUVANUR VIA,KOZHIKODE DIST.

BY ADV. SRI.SANTHARAM.P

RESPONDENTSRESPONDENTS:

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1. SECRETARY,DEPARTMENT OF LABOUR AND REHABILITATION,GOVT.OF KERALA,THIRUVANANTHAPURAM.

2. DISTRICT EXECUTIVE OFFICER,KERALA MOTOR TRANSPORT WELFARE BOARD,KOZHIKODE DISTRICT.

3. THAHSILDAR,REVENUE RECOVERY OFFICE, VATAKARA.

R2 BY ADV.SRI.P.RAMAKRISHNAN, S.C.

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 04/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J.

R.P.No.395 OF 2007

Dated this the 4th day of April, 2007

O R D E R

Heard learned counsel for the petitioner and learned standing counsel for the second respondent.

2. The impugned judgment was issued on the essential factual situation that the petitioner had not filed a statutory appeal against the order of assessment. It had obviously escaped the notice of this Court that the contention of the petitioner was that he had purchased the new vehicle only in 2002 and registration was granted only on 28.1.2002 as evidenced by Ext.P1. The impugned assessment year under the Kerala Motor Transport Workers Welfare Fund Act relates to the period 2000-01 and 2001-02. Obviously the petitioner could have been assessed only after January, 2002. Even his payments, going by Ext.P2 series, are from February, 2002. If that be so, the assessments prior to February, 2002 is without authority and jurisdiction. Hence the

petitioner may be justified in urging that the non filing of the statutory appeal should not be a ground depriving him of relief.

3. In the aforesaid circumstance, I am satisfied that the impugned judgment is vitiated by error apparent on the face of the record and it requires to be reviewed.

The Review petition is allowed and the impugned judgment is recalled.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.